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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,194	12/28/2001	Shahram Shah-Heydari	91436-347	5400
22463	7590	07/26/2006	EXAMINER	
SMART AND BIGGAR			EL CHANTI, HUSSEIN A	
438 UNIVERSITY AVENUE			ART UNIT	PAPER NUMBER
SUITE 1500 BOX 111			2157	
TORONTO, ON M5G2K8				
CANADA			DATE MAILED: 07/26/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/029,194	SHAH-HEYDARI, SHAHRAM
	Examiner	Art Unit
	Hussein A. El-chanti	2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 26 April 2006.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-4,7-11,16-24 and 28-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,7,16,23,24 and 28 is/are rejected.
- 7) Claim(s) 2-4, 8-11, 17-20, 22 and 29-31 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

1. This action is responsive to amendment received on April 26, 2006. Claims 29-31 were newly added. Claims 1-4, 7-11, 16-24 and 28-31 are pending examination.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 7, 16, 23-24 and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Kelly et al., U.S. Patent No. 6,804,199 (referred to hereafter as Kelly).

As to claim 1, Kelly teaches a method of extending a spanning hierarchical protection tree in a mesh network comprising:

at a current node, receiving an invitation to become a child of a first adjacent node (col. 4 lines 45-col. 5 lines 20);

if a minimum link bandwidth along a protection path from said current node to a root node of the spanning hierarchical protection tree which visits the first adjacent node is greater than a minimum link bandwidth of any existing protection path from said current node to said root node: designating said first adjacent node as a primary parent of said current node in said tree; and from said current node, sending an invitation to become a child of said current node in said tree to each adjacent node of said current

node that is not said first adjacent node (col. 6 lines 50-col. 7 lines 65, the best link is determined according to the bandwidth capability).

As to claim 7, Kelly teaches a computing device comprising: a processor; memory in communication with said processor, storing processor readable instructions adapting said device to extend a spanning hierarchical protection tree in a mesh network (col. 4 lines 45-col. 5 lines 65) by:

at a current node, receiving an invitation to become a child of a first adjacent node; and if a minimum link bandwidth along a protection path from said current node to a root node of the spanning hierarchical protection tree which visits the first adjacent node is greater than a minimum link bandwidth of any existing protection path from said current node to said root node, designating said first adjacent node as a primary parent of said current node in said tree-(col. 11 lines 11-col. 12 lines 65).

As to claims 16 and 28, Kelly teaches computer readable medium storing computer software that, when loaded into a computing device, adapts said device to extend a spanning hierarchical protection tree it a mesh network by: at a current node, receiving an invitation to become a child of a first adjacent node (column 4 lines 45-col. 5 lines 65); and

if a minimum link bandwidth along a protection path from said current node to a root node of the spanning hierarchical protection tree which visits the first adjacent node is greater than a minimum link bandwidth of any existing. protection path from said current node to said root node, designating said first adjacent node as a primary parent of said current node in said tree (col. 11 lines 11-col. 12 lines 65).

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As to claim 21, Kelly teaches a computer readable medium storing computer software that, when loaded into a computing device, adapts said device to reconnect a node disconnected from a spanning hierarchical protection tree in a mesh network to the spanning hierarchical protection tree by: designating a backup parent of said disconnected node in said tree to be a primary parent of said disconnected node in said tree; and from said disconnected node, sending an invitation to become a child of said disconnected node in said tree to each adjacent node of said disconnected node that is not said primary parent (col. 11 lines 11-col. 12 lines 65).

As to claim 23, Kelly teaches computer readable medium storing computer software that; when loaded into a computing device, adapts said-device to connect an auxiliary node to a spanning hierarchical protection tree in a mesh network (fig 17) by: receiving an invitation from each adjacent node of said auxiliary node for said auxiliary node to become a child of said adjacent node (col. 12 lines 10-col. 13 lines 45); and designating as a primary parent of said auxiliary node the one adjacent node that is visited by a protection path from said auxiliary node to a root node of said spanning hierarchical protection tree whose minimum link bandwidth is at least as large as the largest minimum link bandwidth of all existing protection paths from said auxiliary node to said root node (col. 11 lines 11-col. 12 lines 65).

As to claim 24, Kelly teaches computer readable medium storing computer software that, when loaded into a computing device, adapts said device to connect an auxiliary node to a spanning hierarchical protection tree in a mesh network by: requesting an invitation from each adjacent node of said auxiliary node for said auxiliary

node to become a child of said adjacent node; from each said adjacent node, receiving an invitation to become a child of said adjacent node (col. 11 lines 11-col. 12 lines 65) each said adjacent node: if a minimum link bandwidth along a protection path from said auxiliary node to a root node of the spanning hierarchical protection tree which visits said adjacent node is greater than a minimum link bandwidth of any existing protection path from said auxiliary node to said root node: designating said adjacent node as a primary parent of said auxiliary node in said tree (col. 11 lines 11-col. 12 lines 65); and from said auxiliary node, sending an invitation to become a child of said auxiliary node in said tree to each further adjacent node of said auxiliary node that is not said primary parent adjacent node (col. 11 lines 11-col. 12 lines 65).

***Allowable Subject Matter***

3. Claims 2-4, 8-11, 17-20, 22 and 29-31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

4. Applicant's arguments have been fully considered but are not persuasive.

Applicant argues in substance that Kelly does not disclose an invitation being sent to each node that is not the new primary parent where the invitation contains an indication of a minimum link bandwidth of a protection path to a root node of the tree which visits the disconnected node.

Applicant is arguing Kelly does not disclose an invitation being sent to each node that is not the new primary parent where the invitation contains an indication of a

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minimum link bandwidth of a protection path to a root node of the tree which visits the disconnected node. These limitations are not found in the claims. Claimed subject matter not the specification is the measure of the invention. Disclosure contained in the specification cannot be read into the claims for the purpose of avoiding prior art. In re Sporck, 55 CCPA 743, 386 F.2d 924, 155 USPQ 687 (1986); In re Self, 213 USPQ 1, 5 (CCPA 1982); In re Priest, 199 USPQ 11, 15 (CCPA 1978).

**5. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**6.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hussein A. El-chanti whose telephone number is (571)272-3999. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571)272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Hussein Elchanti

July 21, 2006



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